

AMENDED IN SENATE AUGUST 31, 2007

AMENDED IN SENATE JULY 17, 2007

AMENDED IN SENATE JULY 5, 2007

AMENDED IN ASSEMBLY MAY 17, 2007

AMENDED IN ASSEMBLY APRIL 30, 2007

AMENDED IN ASSEMBLY MARCH 27, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1683

Introduced by Assembly Member Wolk

February 23, 2007

An act to amend Section 103 of, to amend the heading of Chapter 3.5 (commencing with Section 2300) of Division 3 of, and to add and repeal Section 2301 of, the Fish and Game Code, relating to fish and game, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1683, as amended, Wolk. Fish and game: dreissenid mussels.

(1) Existing law provides for the compensation of members of the Fish and Game Commission, including their actual and necessary expenses. Existing law requires the commission, on or before July 1, 2000, to submit certain recommendations to the Legislature relating to the commission.

This bill would delete that obsolete recommendation requirement.

(2) Existing law generally prohibits the sale, possession, importation, transportation, transfer, live release, or giving away without consideration, of the saltwater algae of the *Caulerpa* species, and subjects

any person who violates that prohibition to a civil penalty of not less than \$500 and not more than \$10,000 for each violation.

This bill, except as otherwise authorized by the Department of Fish and Game, would prohibit a person from possessing, importing, shipping, or transporting in the state, or from placing, planting, or causing to be placed or planted in any water within the state, dreissenid mussels. The bill would authorize the Director of Fish and Game or his or her designee to conduct inspections of specified conveyances that may carry or contain adult or larval dreissenid mussels; order that areas in a conveyance that contain water be drained, dried, or decontaminated pursuant to procedures approved by the department; impound or quarantine conveyances for up to 5 days or the period of time necessary to ensure that the dreissenid mussels can no longer live on or in the conveyance; and conduct inspections of waters of the state and facilities located within waters of the state, that may contain dreissenid mussels and, if those mussels are detected or may be present, order the closure of the waters or facilities to conveyances or otherwise restrict access to the waters or facilities, with the concurrence of the Secretary of the Resources Agency. The bill would require the director or his or her designee to take specified action with respect to conveyances removed from, or introduced to, those waters and facilities. The director could authorize other state agencies to exercise this authority upon a prescribed written determination by the director. The bill would exempt a public or private agency that operates a water supply system from those enforcement activities, if the operator of the facilities has prepared and implemented a prescribed plan to control or eradicate dreissenid mussels. The bill would require that the discovery of dressenid mussels be immediately reported to the department. A person who violates or resists, delays, obstructs, or interferes with the implementation of these provisions would be subject to a penalty, in an amount not to exceed \$1,000, that is imposed administratively by the department. The department would be authorized to adopt regulations to carry out these provisions. Because, under existing law, a violation of these provisions would be a crime, the bill would impose a state-mandated local program. These provisions would be repealed on January 1, 2012.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Mussels of the genus *Dreissena* (dreissenid mussels) are a
4 harmful, highly invasive species, and not native to California.

5 (b) Dreissenid mussels, which include both zebra and quagga
6 mussels, were first discovered in the United States in the Great
7 Lakes in or around 1988. This infestation has caused billions of
8 dollars in costs to public agencies and private industry. Dreissenid
9 mussels have been detected in Lake Mead on the Arizona-Nevada
10 border and in Lake Havasu in California.

11 (c) Dreissenid mussels can readily move from place to place as
12 free-swimming larvae and adults, and reproduce rapidly and in
13 large numbers. Dreissenid mussels can severely hinder the delivery
14 of water due to the mussels' capacity to clog or foul pipes, pumps,
15 and other water intake structures, water delivery systems,
16 powerplant intakes, cooling systems, and fish screens. Dreissenid
17 mussels damage the hulls, propellers, and motors of boats and
18 other watercraft.

19 (d) Dreissenid mussels alter the natural food web of aquatic
20 ecosystems. By filtering planktonic algae and other nutrients that
21 are the primary base of the food chain from the water, dreissenid
22 mussels can cause the decline or extirpation of native species, and
23 otherwise disrupt the ecological balance of infested water bodies.

24 (e) Dreissenid mussels' sharp-edged shells along swimming
25 beaches can be a hazard to unprotected feet.

26 (f) In order to protect and preserve the health and safety of the
27 people of the State of California, its economy, and its fish and
28 wildlife resources, it is the intent of the Legislature to establish an
29 effective program to prevent additional dreissenid mussels from
30 entering the state, to prevent dreissenid mussels from being
31 introduced into any water in California where they currently do
32 not exist, and to detect and destroy dreissenid mussels anywhere

1 in the state. For this purpose, there has been developed a Quagga
2 Mussel Incident Strategic Plan.

3 SEC. 2. Section 103 of the Fish and Game Code is amended
4 to read:

5 103. (a) Each of the commissioners shall receive one hundred
6 dollars (\$100) for each day of actual service performed in carrying
7 out his or her official duties pursuant to law, but the amount of
8 this compensation shall not exceed for any one commissioner the
9 sum of five hundred dollars (\$500) for any one calendar month.
10 In addition to this compensation, the commissioners shall receive
11 their actual and necessary expenses incurred in the performance
12 of their duties.

13 (b) The compensation and expenses provided in this section
14 shall be paid out of the Fish and Game Preservation Fund.

15 SEC. 3. The heading of Chapter 3.5 (commencing with Section
16 2300) of Division 3 of the Fish and Game Code is amended to
17 read:

18
19 CHAPTER 3.5. AQUATIC INVASIVE SPECIES
20

21 SEC. 4. Section 2301 is added to the Fish and Game Code, to
22 read:

23 2301. (a) (1) Except as authorized by the department, a person
24 shall not possess, import, ship, or transport in the state, or place,
25 plant, or cause to be placed or planted in any water within the state,
26 dreissenid mussels.

27 (2) The director or his or her designee may do all of the
28 following:

29 (A) Conduct inspections of conveyances, which include vehicles,
30 boats and other watercraft, containers, and trailers, that may carry
31 or contain adult or larval dreissenid mussels. Included as part of
32 this authority to conduct inspections is the authority to temporarily
33 stop conveyances that may carry or contain adult or larval
34 dreissenid mussels on any roadway or waterway in order to conduct
35 inspections.

36 (B) Order that areas in a conveyance that contain water be
37 drained, dried, or decontaminated pursuant to procedures approved
38 by the department.

39 (C) Impound or quarantine conveyances in locations designated
40 by the department for up to five days or the period of time

1 necessary to ensure that dreissenid mussels can no longer live on
2 or in the conveyance.

3 (D) (i) Conduct inspections of waters of the state and facilities
4 located within waters of the state that may contain dreissenid
5 mussels. If dreissenid mussels are detected or may be present, the
6 director or his or her designee may order the affected waters or
7 facilities closed to conveyances or otherwise restrict access to the
8 affected waters or facilities, and shall order that conveyances
9 removed from, or introduced to, the affected waters or facilities
10 be inspected, quarantined, or disinfected in a manner and for a
11 duration necessary to detect and prevent the spread of dreissenid
12 mussels within the state.

13 (ii) For the purpose of implementing clause (i), the director or
14 his or her designee shall order the closure or quarantine of, or
15 restrict access to, these waters, areas, or facilities in a manner and
16 duration necessary to detect and prevent the spread of dreissenid
17 mussels within the state. No closure, quarantine, or restriction shall
18 be authorized by the director or his or her designee without the
19 concurrence of the Secretary of the Resources Agency. If a closure
20 lasts longer than seven days, the department shall update the
21 operator of the affected facility every 10 days on efforts to address
22 the dreissenid infestation. The department shall provide these
23 updates in writing and also post these updates on the department's
24 Internet Web site in an easily accessible manner.

25 (iii) The department shall develop procedures to ensure proper
26 notification of affected local and federal agencies, and, as
27 appropriate, the Department of Boating and Waterways, the
28 Department of Water Resources, the Department of Parks and
29 Recreation, and the State Lands Commission in the event of a
30 decision to close, quarantine, or restrict a facility pursuant to this
31 paragraph. These procedures shall include the reasons for the
32 closure, quarantine, or restriction, and methods for providing
33 updated information to those affected. These procedures shall also
34 include protocols for the posting of the notifications on the
35 department's Internet Web site required by clause (ii).

36 (iv) When deciding the scope, duration, level, and type of
37 restrictions, and specific location of a closure or quarantine, the
38 director shall consult with the agency, entity, owner, or operator
39 with jurisdiction, control, or management responsibility over the
40 marina, boat launch facility, or other facility, in order to focus the

1 closure or quarantine to specific areas and facilities so as to avoid
2 or minimize disruption of economic or recreational activity in the
3 vicinity.

4 (b) (1) Upon a determination by the director that it would further
5 the purposes of this section, other state agencies, including, but
6 not limited to, the Department of Parks and Recreation, the
7 Department of Water Resources, the Department of Food and
8 Agriculture, and the State Lands Commission, may exercise the
9 authority granted to the department in subdivision (a).

10 (2) A determination made pursuant to paragraph (1) shall be in
11 writing and shall remain in effect until withdrawn, in writing, by
12 the director.

13 (c) (1) Except as provided in paragraph (2), Division 13
14 (commencing with Section 21000) of the Public Resources Code
15 does not apply to the implementation of this section.

16 (2) An action undertaken pursuant to subparagraph (B) of
17 paragraph (2) of subdivision (a) involving the use of chemicals
18 other than salt or hot water to decontaminate a conveyance or a
19 facility is subject to Division 13 (commencing with Section 21000)
20 of the Public Resources Code.

21 (d) (1) A public or private agency that operates a water supply
22 system shall cooperate with the department to implement measures
23 to avoid infestation by dreissenid mussels and to control or
24 eradicate any infestation that may occur in a water supply system.
25 If dreissenid mussels are detected, the operator of the water supply
26 system, in cooperation with the department, shall prepare and
27 implement a plan to control or eradicate dreissenid mussels within
28 the system. The approved plan shall contain the following
29 minimum elements:

30 (A) Methods for delineation of infestation, including both adult
31 mussels and veligers.

32 (B) Methods for control or eradication of adult mussels and
33 decontamination of water containing larval mussels.

34 (C) A systematic monitoring program to determine any changes
35 in conditions.

36 (D) *The requirement that the operator of the water supply system*
37 *cooperate with the department to update or revise control or*
38 *eradication measures in the approved plan to address scientific*
39 *advances in the methods of controlling or eradicating mussels and*
40 *veligers.*

(2) Paragraph (2) of subdivision (a) does not apply to the operation of water delivery and storage facilities for the purposes of providing water supply if the operator of the facilities has prepared and implemented a plan to control or eradicate dreissenid mussels in accordance with paragraph (1). *The department may require the operator of a facility to update its plan, and if the plan is not updated or revised as described in subparagraph (D) of paragraph (1), the department may engage in the actions described in paragraph (2) of subdivision (a).*

(e) Any entity that discovers dreissenid mussels within this state shall immediately report the discovery to the department.

(f) (1) In addition to any other penalty provided by law, any person who violates this section, any verbal or written order or regulation adopted pursuant to this section, or who resists, delays, obstructs, or interferes with the implementation of this section, is subject to a penalty, in an amount not to exceed one thousand dollars (\$1,000), that is imposed administratively by the department.

(2) A penalty shall not be imposed pursuant to paragraph (1) unless the department has adopted regulations specifying the amount of the penalty and the procedure for imposing and appealing the penalty.

(g) The department may adopt regulations to carry out this section.

(h) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

- 1 In order to minimize the adverse impacts caused by dreissenid
- 2 mussels, including impacts on water service deliveries, watercraft,
- 3 recreational swimmers, and aquatic ecosystems, as soon as
- 4 possible, it is necessary that this act take effect immediately.